

other technology useful for the development or production of weapons of mass destruction.

(Pub. L. 104-293, title VII, §722, as added Pub. L. 107-314, div. A, title XII, §1209(a), Dec. 2, 2002, 116 Stat. 2668.)

#### CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 1997, and also as part of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

#### EFFECTIVE DATE

Pub. L. 107-314, div. A, title XII, §1209(b), Dec. 2, 2002, 116 Stat. 2669, provided that: “Section 722 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 [50 U.S.C. 2369], as added by subsection (a), shall take effect with the report with respect to the first six months of 2003 required to be submitted under that section not later than January 1, 2004.”

### CHAPTER 41—NATIONAL NUCLEAR SECURITY ADMINISTRATION

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## SUBCHAPTER I—ESTABLISHMENT AND ORGANIZATION

## § 2401. Establishment and mission

## (a) Establishment

There is established within the Department of Energy a separately organized agency to be known as the National Nuclear Security Administration (in this chapter referred to as the “Administration”).

## (b) Mission

The mission of the Administration shall be the following:

- (1) To enhance United States national security through the military application of nuclear energy.
- (2) To maintain and enhance the safety, reliability, and performance of the United States nuclear weapons stockpile, including the ability to design, produce, and test, in order to meet national security requirements.
- (3) To provide the United States Navy with safe, militarily effective nuclear propulsion plants and to ensure the safe and reliable operation of those plants.
- (4) To promote international nuclear safety and nonproliferation.
- (5) To reduce global danger from weapons of mass destruction.
- (6) To support United States leadership in science and technology.

## (c) Operations and activities to be carried out consistent with certain principles

In carrying out the mission of the Administration, the Administrator shall ensure that all operations and activities of the Administration are consistent with the principles of protecting the environment and safeguarding the safety and health of the public and of the workforce of the Administration.

(Pub. L. 106-65, div. C, title XXXII, § 3211, Oct. 5, 1999, 113 Stat. 957.)

## REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title”, meaning title XXXII of div. C of Pub. L. 106-65, Oct. 5, 1999, 113 Stat. 953, as amended, which is classified principally to this chapter. For complete classification of title XXXII to the Code, see Short Title note set out below and Tables.

## EFFECTIVE DATE

Pub. L. 106-65, div. C, title XXXII, § 3299, Oct. 5, 1999, 113 Stat. 971, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this title [see Short Title note below] shall take effect on March 1, 2000.

“(b) EXCEPTIONS.—(1) Sections 3202, 3204, 3251, 3295, and 3297 [enacting sections 2451 and 2483 of this title and sections 7144a to 7144c of Title 42, amending section 7132 of Title 42, and enacting provisions set out as a note below] shall take effect on the date of the enactment of this Act [Oct. 5, 1999].

“(2) Sections 3234 and 3235 [enacting sections 2424 and 2425 of this title] shall take effect on the date of the enactment of this Act. During the period beginning on the date of the enactment of this Act and ending on the effective date of this title, the Secretary of Energy shall carry out those sections and any reference in those sections to the Administrator and the Administration shall be treated as references to the Secretary and the Department of Energy, respectively.”

## SHORT TITLE

Pub. L. 106-65, div. C, title XXXII, § 3201, Oct. 5, 1999, 113 Stat. 953, provided that: “This title [enacting this chapter and sections 7144 to 7144c of Title 42, The Public Health and Welfare, amending sections 5314, 5315, 5595, and 8905a of Title 5, Government Organization and Employees, and sections 7132, 7133, and 7158 of Title 42, repealing sections 2122a, 7143, and 7271b of Title 42, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 435 of this title] may be cited as the ‘National Nuclear Security Administration Act’.”

## PREPARATION OF INFRASTRUCTURE PLAN FOR THE NUCLEAR WEAPONS COMPLEX

Pub. L. 107-107, div. B, title XXX, § 3008, Dec. 28, 2001, 115 Stat. 1352, provided that:

“(a) INFRASTRUCTURE PLAN FOR NUCLEAR WEAPONS COMPLEX.—

“(1) PREPARATION AND SUBMISSION.—Not later than the date on which the budget for the Department of Energy for fiscal year 2004 is submitted to Congress, the Secretary of Energy shall submit to Congress an infrastructure plan for the nuclear weapons complex adequate to support the nuclear weapons stockpile, the naval reactors program, and nonproliferation and national security activities.

“(2) SPECIAL CONSIDERATIONS.—In preparing the infrastructure plan, the Secretary shall take into consideration the following:

“(A) The Department of Defense Nuclear Posture Review required pursuant to section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-262 [10 U.S.C. 118 note]).

“(B) Any efficiencies and security benefits of consolidation of facilities of the nuclear weapons complex.

“(C) The necessity to have a residual production capability.

“(b) RECOMMENDATIONS REGARDING REALIGNMENTS AND CLOSURES.—On the basis of the infrastructure plan prepared under subsection (a), the Secretary shall make such recommendations regarding the need to close or realign facilities of the nuclear weapons complex as the Secretary considers appropriate, including the Secretary’s recommendations on whether to establish a process by which a round of closures and realignments would be carried out and any additional legislative authority necessary to implement the recommendations. The Secretary shall submit the recommendations as part of the infrastructure plan under subsection (a).

“(c) DEFINITIONS.—In this section:

“(1) The terms ‘Secretary’ and ‘Secretary of Energy’ mean the Secretary of Energy, acting after consideration of the recommendations of the Administrator for Nuclear Security.

“(2) The term ‘nuclear weapons complex’ means the national security laboratories and nuclear weapons

production facilities (as such terms are defined in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471)) and the facilities of the Naval Nuclear Propulsion Program provided for under the Naval Nuclear Propulsion Executive Order (as such term is defined in section 3216 of such Act (50 U.S.C. 2406)).”

**STUDY AND REPORT RELATED TO IMPROVING MISSION EFFECTIVENESS, PARTNERSHIPS, AND TECHNOLOGY TRANSFER AT NATIONAL SECURITY LABORATORIES AND NUCLEAR WEAPONS PRODUCTION FACILITIES**

Pub. L. 106-398, §1 [div. C, title XXXI, §3163], Oct. 30, 2000, 114 Stat. 1654, 1654A-473, provided that:

“(a) **STUDY AND REPORT REQUIRED.**—The Secretary of Energy shall direct the Secretary of Energy Advisory Board to study and to submit to the Secretary not later than one year after the date of the enactment of this Act [Oct. 30, 2000] a report regarding the following topics:

“(1) The advantages and disadvantages of providing the Administrator for Nuclear Security with authority, notwithstanding the limitations otherwise imposed by the Federal Acquisition Regulation, to enter into transactions with public agencies, private organizations, or individuals on terms the Administrator considers appropriate to the furtherance of basic, applied, and advanced research functions. The Advisory Board shall consider, in its assessment of this authority, the management history of the Department of Energy and the effect of this authority on the National Nuclear Security Administration’s use of contractors to operate the national security laboratories.

“(2) The advantages and disadvantages of establishing and implementing policies and procedures to facilitate the transfer of scientific, technical, and professional personnel among national security laboratories and nuclear weapons production facilities.

“(3) The advantages and disadvantages of making changes in—

“(A) the indemnification requirements for patents or other intellectual property licensed from a national security laboratory or nuclear weapons production facility;

“(B) the royalty and fee schedules and types of compensation that may be used for patents or other intellectual property licensed to a small business concern from a national security laboratory or nuclear weapons production facility;

“(C) the licensing procedures and requirements for patents and other intellectual property;

“(D) the rights given to a small business concern that has licensed a patent or other intellectual property from a national security laboratory or nuclear weapons production facility to bring suit against third parties infringing such intellectual property;

“(E) the advance funding requirements for a small business concern funding a project at a national security laboratory or nuclear weapons production facility through a funds-in agreement;

“(F) the intellectual property rights allocated to a business when it is funding a project at a national security laboratory or nuclear weapons production facility through a funds-in agreement; and

“(G) policies on royalty payments to inventors employed by a contractor operating a national security laboratory or nuclear weapons production facility, including those for inventions made under a funds-in agreement.

“(b) **DEFINITION OF FUNDS-IN AGREEMENT.**—For the purposes of this section, the term ‘funds-in agreement’ means a contract between the Department and a non-Federal organization under which that organization pays the Department to provide a service or material not otherwise available in the domestic private sector.

“(c) **SUBMISSION TO CONGRESS.**—Not later than one month after receiving the report under subsection (a), the Secretary shall submit to Congress that report,

along with the Secretary’s recommendations for action and proposals for legislation to implement the recommendations.”

**DEFINITIONS FOR PURPOSES OF PUB. L. 106-398**

Pub. L. 106-398, §1 [div. C, title XXXI, §3165], Oct. 30, 2000, 114 Stat. 1654, 1654A-475, provided that: “For purposes of this subtitle [subtitle E (§§3161-3165) of title XXXI of div. C of H.R. 5408, as enacted by section 1 of Pub. L. 106-398, enacting provisions set out as notes under this section and section 2402 of this title], the terms ‘national security laboratory’ and ‘nuclear weapons production facility’ have the meanings given such terms in section 3281 of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 113 Stat. 968; 50 U.S.C. 2471).”

**REPORT CONTAINING IMPLEMENTATION PLAN OF SECRETARY OF ENERGY**

Pub. L. 106-65, div. C, title XXXII, §3297, Oct. 5, 1999, 113 Stat. 971, provided that: “Not later than January 1, 2000, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the Secretary’s plan for the implementation of the provisions of this title [see Short Title note set out above].”

**CLASSIFICATION IN UNITED STATES CODE**

Pub. L. 106-65, div. C, title XXXII, §3298, Oct. 5, 1999, 113 Stat. 971, provided that: “Subtitles A through F of this title [§§3211-3281, enacting this chapter and amending sections 5595 and 8905a of Title 5, Government Organization and Employees] (other than provisions of those subtitles amending existing provisions of law) shall be classified to the United States Code as a new chapter of title 50, United States Code.”

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 2464 of this title.

**§ 2402. Administrator for Nuclear Security**

**(a) In general**

(1) There is at the head of the Administration an Administrator for Nuclear Security (in this chapter referred to as the “Administrator”).

(2) Pursuant to subsection (c) of section 7132 of title 42, the Under Secretary for Nuclear Security of the Department of Energy serves as the Administrator.

**(b) Functions**

The Administrator has authority over, and is responsible for, all programs and activities of the Administration (except for the functions of the Deputy Administrator for Naval Reactors specified in the Executive order referred to in section 2406(b) of this title), including the following:

- (1) Strategic management.
- (2) Policy development and guidance.
- (3) Budget formulation, guidance, and execution, and other financial matters.
- (4) Resource requirements determination and allocation.
- (5) Program management and direction.
- (6) Safeguards and security.
- (7) Emergency management.
- (8) Integrated safety management.
- (9) Environment, safety, and health operations.
- (10) Administration of contracts, including the management and operations of the nuclear weapons production facilities and the national security laboratories.

(11) Intelligence.

(12) Counterintelligence.

(13) Personnel, including the selection, appointment, distribution, supervision, establishing of compensation, and separation of personnel in accordance with subchapter III of this chapter.

(14) Procurement of services of experts and consultants in accordance with section 3109 of title 5.

(15) Legal matters.

(16) Legislative affairs.

(17) Public affairs.

(18) Liaison with other elements of the Department of Energy and with other Federal agencies, State, tribal, and local governments, and the public.

#### (c) Procurement authority

The Administrator is the senior procurement executive for the Administration for the purposes of section 414(3) of title 41.

#### (d) Policy authority

The Administrator may establish Administration-specific policies, unless disapproved by the Secretary of Energy.

#### (e) Membership on Joint Nuclear Weapons Council

The Administrator serves as a member of the Joint Nuclear Weapons Council under section 179 of title 10.

#### (f) Reorganization authority

Except as provided by subsections (b) and (c) of section 2481 of this title:

(1) The Administrator may establish, abolish, alter, consolidate, or discontinue any organizational unit or component of the Administration, or transfer any function of the Administration.

(2) Such authority does not apply to the abolition of organizational units or components established by law or the transfer of functions vested by law in any organizational unit or component.

(Pub. L. 106-65, div. C, title XXXII, § 3212, Oct. 5, 1999, 113 Stat. 957; Pub. L. 106-398, § 1 [div. C, title XXXI, §§ 3152(b), 3159(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-464, 1654A-469; Pub. L. 107-107, div. A, title X, § 1048(i)(12), Dec. 28, 2001, 115 Stat. 1230.)

#### AMENDMENTS

2001—Subsecs. (e), (f). Pub. L. 107-107 redesignated subsec. (e), relating to reorganization authority, as (f).  
2000—Subsec. (e). Pub. L. 106-398, § 1 [div. C, title XXXI, § 3159(a)], added subsec. (e) relating to reorganization authority.

Pub. L. 106-398, § 1 [div. C, title XXXI, § 3152(b)], added subsec. (e) relating to membership on Joint Nuclear Weapons Council.

#### TECHNOLOGY INFRASTRUCTURE PILOT PROGRAM

Pub. L. 106-398, § 1 [div. C, title XXXI, § 3161], Oct. 30, 2000, 114 Stat. 1654, 1654A-470, provided that:

“(a) ESTABLISHMENT.—The Administrator for Nuclear Security shall establish a Technology Infrastructure Pilot Program in accordance with this section.

“(b) PURPOSE.—The purpose of the program shall be to explore new methods of collaboration and improvements in the management and effectiveness of collaborative programs carried out by the national security laboratories and nuclear weapons production facilities

in partnership with private industry and institutions of higher education and to improve the ability of those laboratories and facilities to support missions of the Administration.

“(c) FUNDING.—(1) Except as provided in paragraph (2), funding shall be available for the pilot program only to the extent of specific authorizations and appropriations enacted after the date of the enactment of this Act [Oct. 30, 2000].

“(2) From amounts available in fiscal years 2001 and 2002 for technology partnership programs of the Administration, the Administrator may allocate to carry out the pilot program not more than \$5,000,000.

“(d) PROJECT REQUIREMENTS.—A project may not be approved for the pilot program unless the project meets the following requirements:

“(1) The participants in the project include—

“(A) a national security laboratory or nuclear weapons production facility; and

“(B) one or more of the following:

“(i) A business.

“(ii) An institution of higher education.

“(iii) A nonprofit institution.

“(iv) An agency of a State, local, or tribal government.

“(2)(A) Not less than 50 percent of the costs of the project are to be provided by non-Federal sources.

“(B)(i) The calculation of the amount of the costs of the project provided by non-Federal sources shall include cash, personnel, services, equipment, and other resources expended on the project.

“(ii) No funds or other resources expended before the start of the project or outside the project's scope of work may be credited toward the costs provided by non-Federal sources to the project.

“(3) The project (other than in the case of a project under which the participating laboratory or facility receives funding under this section) shall be competitively selected by that laboratory or facility using procedures determined to be appropriate by the Administrator.

“(4) No Federal funds shall be made available under this section for—

“(A) construction; or

“(B) any project for more than five years.

“(e) SELECTION CRITERIA.—(1) The projects selected for the pilot program shall—

“(A) stimulate the development of technology expertise and capabilities in private industry and institutions of higher education that can support the nuclear weapons and nuclear nonproliferation missions of the national security laboratories and nuclear weapons production facilities on a continuing basis;

“(B) improve the ability of those laboratories and facilities [to] benefit from commercial research, technology, products, processes, and services that can support the nuclear weapons and nuclear nonproliferation missions of those laboratories and facilities on a continuing basis; and

“(C) encourage the exchange of scientific and technological expertise between those laboratories and facilities and—

“(i) institutions of higher education;

“(ii) technology-related business concerns;

“(iii) nonprofit institutions; and

“(iv) agencies of State, tribal, or local governments;

that can support the missions of those laboratories and facilities.

“(2) The Administrator may authorize the provision of Federal funds for a project under this section only if the director of the laboratory or facility managing the project determines that the project is likely to improve the ability of that laboratory or facility to achieve technical success in meeting nuclear weapons and nuclear nonproliferation missions of the Administration.

“(3) The Administrator shall require the director of the laboratory or facility to consider the following criteria in selecting a project to receive Federal funds:

“(A) The potential of the project to succeed, based on its technical merit, team members, management approach, resources, and project plan.

“(B) The potential of the project to promote the development of a commercially sustainable technology, determined by considering whether the project will derive sufficient demand for its products or services from the private sector to support the nuclear weapons and nuclear nonproliferation missions of the participating laboratory or facility on a continuing basis.

“(C) The potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating laboratory or facility to achieve its nuclear weapons and nuclear nonproliferation missions.

“(D) The commitment shown by non-Federal organizations to the project, based primarily on the nature and amount of the financial and other resources they will risk on the project.

“(E) The extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the nuclear weapons and nuclear nonproliferation missions of the participating laboratory or facility on a continuing basis and that will make substantive contributions to achieving the goals of the project.

“(F) The extent of participation in the project by agencies of State, tribal, or local governments that will make substantive contributions to achieving the goals of the project.

“(G) The extent to which the project focuses on promoting the development of technology-related business concerns that are small business concerns or involves small business concerns substantively in the project.

“(f) IMPLEMENTATION PLAN.—No funds may be allocated for the pilot program until 30 days after the date on which the Administrator submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the implementation of the pilot program. The plan shall, at a minimum—

“(1) identify the national security laboratories and nuclear weapons production facilities that have been designated by the Administrator to participate in the pilot program; and

“(2) with respect to each laboratory or facility identified under paragraph (1)—

“(A) identify the businesses, institutions of higher education, nonprofit institutions, and agencies of State, local, or tribal government that are expected to participate in the pilot program at that laboratory or facility;

“(B) identify the technology areas to be addressed by the pilot program at that laboratory or facility and the manner in which the pilot program will support high-priority missions of that laboratory or facility on a continuing basis; and

“(C) describe the management controls that have been put into place to ensure that the pilot program as conducted at that laboratory or facility is conducted in a cost-effective manner consistent with the objectives of the pilot program.

“(g) REPORT ON IMPLEMENTATION.—(1) Not later than February 1, 2002, the Administrator shall submit to the congressional defense committees a report on the implementation and management of the pilot program. The report shall take into consideration the results of the pilot program to date and the views of the directors of the participating laboratories and facilities. The report shall include any recommendations the Administrator may have concerning the future of the pilot program.

“(2) Not later than 30 days after the date on which the Administrator submits the report required by paragraph (1), the Comptroller General shall submit to the congressional defense committees a report containing the Comptroller General’s assessment of that report.”

[For definitions of “national security laboratory” and “nuclear weapons production facility” as used in

section 1 [div. C, title XXXI, §3161] of Pub. L. 106-398, set out above, see section 1 [div. C, title XXXI, §3165] of Pub. L. 106-398, set out as a note under section 2401 of this title.]

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2410 of this title; title 42 sections 7132, 7253.

### § 2403. Principal Deputy Administrator for Nuclear Security

#### (a) In general

(1) There is in the Administration a Principal Deputy Administrator, who is appointed by the President, by and with the advice and consent of the Senate.

(2) The Principal Deputy Administrator shall be appointed from among persons who have extensive background in organizational management and are well qualified to manage the nuclear weapons, nonproliferation, and materials disposition programs of the Administration in a manner that advances and protects the national security of the United States.

#### (b) Duties

Subject to the authority, direction, and control of the Administrator, the Principal Deputy Administrator shall perform such duties and exercise such powers as the Administrator may prescribe, including the coordination of activities among the elements of the Administration. The Principal Deputy Administrator shall act for, and exercise the powers of, the Administrator when the Administrator is disabled or the position of Administrator is vacant.

(Pub. L. 106-65, div. C, title XXXII, §3213, as added Pub. L. 107-107, div. C, title XXXI, §3141(a)(2), Dec. 28, 2001, 115 Stat. 1370.)

#### PRIOR PROVISIONS

A prior section 2403, Pub. L. 106-65, div. C, title XXXII, §3213, Oct. 5, 1999, 113 Stat. 958; Pub. L. 106-398, §1 [div. C, title XXXI, §3157], Oct. 30, 2000, 114 Stat. 1654, 1654A-468, which related to status of Administration and contractor personnel within Department of Energy, was renumbered section 3220 of Pub. L. 106-65, by Pub. L. 107-107, div. C, title XXXI, §3141(a)(1), Dec. 28, 2001, 115 Stat. 1369, and transferred to section 2410 of this title.

### § 2404. Deputy Administrator for Defense Programs

#### (a) In general

There is in the Administration a Deputy Administrator for Defense Programs, who is appointed by the President, by and with the advice and consent of the Senate.

#### (b) Duties

Subject to the authority, direction, and control of the Administrator, the Deputy Administrator for Defense Programs shall perform such duties and exercise such powers as the Administrator may prescribe, including the following:

(1) Maintaining and enhancing the safety, reliability, and performance of the United States nuclear weapons stockpile, including the ability to design, produce, and test, in order to meet national security requirements.

(2) Directing, managing, and overseeing the nuclear weapons production facilities and the national security laboratories.

(3) Directing, managing, and overseeing assets to respond to incidents involving nuclear weapons and materials.

(Pub. L. 106-65, div. C, title XXXII, § 3214, Oct. 5, 1999, 113 Stat. 959; Pub. L. 107-107, div. C, title XXXI, § 3142, Dec. 28, 2001, 115 Stat. 1370.)

#### AMENDMENTS

2001—Subsec. (c). Pub. L. 107-107 struck out heading and text of subsec. (c). Text read as follows: “The head of each national security laboratory and nuclear weapons production facility shall, consistent with applicable contractual obligations, report to the Deputy Administrator for Defense Programs.”

### § 2405. Deputy Administrator for Defense Nuclear Nonproliferation

#### (a) In general

There is in the Administration a Deputy Administrator for Defense Nuclear Nonproliferation, who is appointed by the President, by and with the advice and consent of the Senate.

#### (b) Duties

Subject to the authority, direction, and control of the Administrator, the Deputy Administrator for Defense Nuclear Nonproliferation shall perform such duties and exercise such powers as the Administrator may prescribe, including the following:

- (1) Preventing the spread of materials, technology, and expertise relating to weapons of mass destruction.
- (2) Detecting the proliferation of weapons of mass destruction worldwide.
- (3) Eliminating inventories of surplus fissile materials usable for nuclear weapons.
- (4) Providing for international nuclear safety.

(Pub. L. 106-65, div. C, title XXXII, § 3215, Oct. 5, 1999, 113 Stat. 959.)

### § 2406. Deputy Administrator for Naval Reactors

#### (a) In general

(1) There is in the Administration a Deputy Administrator for Naval Reactors. The director of the Naval Nuclear Propulsion Program provided for under the Naval Nuclear Propulsion Executive Order shall serve as the Deputy Administrator for Naval Reactors.

(2) Within the Department of Energy, the Deputy Administrator shall report to the Secretary of Energy through the Administrator and shall have direct access to the Secretary and other senior officials in the Department.

#### (b) Duties

The Deputy Administrator shall be assigned the responsibilities, authorities, and accountability for all functions of the Office of Naval Reactors under the Naval Nuclear Propulsion Executive Order.

#### (c) Effect on Executive Order

Except as otherwise specified in this section and notwithstanding any other provision of this chapter, the provisions of the Naval Nuclear Propulsion Executive Order remain in full force and effect until changed by law.

#### (d) Naval Nuclear Propulsion Executive Order

As used in this section, the Naval Nuclear Propulsion Executive Order is Executive Order No.

12344, dated February 1, 1982 (42 U.S.C. 7158 note) (as in force pursuant to section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 42 U.S.C. 7158 note)).

(Pub. L. 106-65, div. C, title XXXII, § 3216, Oct. 5, 1999, 113 Stat. 959.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2402, 2410 of this title.

### § 2407. General Counsel

There is a General Counsel of the Administration. The General Counsel is the chief legal officer of the Administration.

(Pub. L. 106-65, div. C, title XXXII, § 3217, Oct. 5, 1999, 113 Stat. 960.)

### § 2408. Staff of Administration

#### (a) In general

The Administrator shall maintain within the Administration sufficient staff to assist the Administrator in carrying out the duties and responsibilities of the Administrator.

#### (b) Responsibilities

The staff of the Administration shall perform, in accordance with applicable law, such of the functions of the Administrator as the Administrator shall prescribe. The Administrator shall assign to the staff responsibility for the following functions:

- (1) Personnel.
- (2) Legislative affairs.
- (3) Public affairs.
- (4) Liaison with other elements of the Department of Energy and with other Federal agencies, State, tribal, and local governments, and the public.

(Pub. L. 106-65, div. C, title XXXII, § 3218, Oct. 5, 1999, 113 Stat. 960.)

### § 2409. Scope of authority of Secretary of Energy to modify organization of Administration

Notwithstanding the authority granted by section 7253 of title 42 or any other provision of law, the Secretary of Energy may not establish, abolish, alter, consolidate, or discontinue any organizational unit or component, or transfer any function, of the Administration, except as authorized by subsection (b) or (c) of section 2481 of this title.

(Pub. L. 106-65, div. C, title XXXII, § 3219, as added Pub. L. 106-377, § 1(a)(2) [title III, § 314(a)], Oct. 27, 2000, 114 Stat. 1441, 1441A-81.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7253.

### § 2410. Status of Administration and contractor personnel within Department of Energy

#### (a) Status of Administration personnel

Each officer or employee of the Administration—

- (1) shall be responsible to and subject to the authority, direction, and control of—

(A) the Secretary acting through the Administrator and consistent with section 7132(c)(3) of title 42;

- (B) the Administrator; or
- (C) the Administrator's designee within the Administration; and

(2) shall not be responsible to, or subject to the authority, direction, or control of, any other officer, employee, or agent of the Department of Energy.

**(b) Status of contractor personnel**

Each officer or employee of a contractor of the Administration shall not be responsible to, or subject to the authority, direction, or control of, any officer, employee, or agent of the Department of Energy who is not an employee of the Administration, except for the Secretary of Energy consistent with section 7132(c)(3) of title 42.

**(c) Construction of section**

Subsections (a) and (b) of this section may not be interpreted to in any way preclude or interfere with the communication of technical findings derived from, and in accord with, duly authorized activities between (1) the head, or any contractor employee, of a national security laboratory or of a nuclear weapons production facility, and (2) the Department of Energy, the President, or Congress.

**(d) Prohibition on dual office holding**

Except in accordance with sections 2402(a)(2) and 2406(a)(1) of this title:

- (1) An individual may not concurrently hold or carry out the responsibilities of—

- (A) a position within the Administration; and

- (B) a position within the Department of Energy not within the Administration.

(2) No funds appropriated or otherwise made available for any fiscal year may be used to pay, to an individual who concurrently holds or carries out the responsibilities of a position specified in paragraph (1)(A) and a position specified in paragraph (1)(B), the basic pay, salary, or other compensation relating to any such position.

(Pub. L. 106-65, div. C, title XXXII, §3220, formerly §3213, Oct. 5, 1999, 113 Stat. 958; Pub. L. 106-398, §1 [div. C, title XXXI, §3157], Oct. 30, 2000, 114 Stat. 1654, 1654A-468; renumbered §3220, Pub. L. 107-107, div. C, title XXXI, §3141(a)(1), Dec. 28, 2001, 115 Stat. 1370.)

**CODIFICATION**

Section was formerly classified to section 2403 of this title.

**AMENDMENTS**

2000—Subsec. (a). Pub. L. 106-398, §1 [div. C, title XXXI, §3157(1)], struck out “Administration, in carrying out any function of the” after “employee of the” in introductory provisions.

Subsec. (b). Pub. L. 106-398, §1 [div. C, title XXXI, §3157(2)], struck out “, in carrying out any function of the Administration,” after “contractor of the Administration”.

Subsec. (d). Pub. L. 106-398, §1 [div. C, title XXXI, §3157(3)], added subsec. (d).

**SUBCHAPTER II—MATTERS RELATING TO SECURITY**

**§ 2421. Protection of national security information**

**(a) Policies and procedures required**

The Administrator shall establish procedures to ensure the maximum protection of classified information in the possession of the Administration.

**(b) Prompt reporting**

The Administrator shall establish procedures to ensure prompt reporting to the Administrator of any significant problem, abuse, violation of law or Executive order, or deficiency relating to the management of classified information by personnel of the Administration.

(Pub. L. 106-65, div. C, title XXXII, §3231, Oct. 5, 1999, 113 Stat. 960.)

**§ 2422. Office of Defense Nuclear Counterintelligence and Office of Defense Nuclear Security**

**(a) Establishment**

- (1) There are within the Administration—

- (A) an Office of Defense Nuclear Counterintelligence; and

- (B) an Office of Defense Nuclear Security.

(2) Each office established under paragraph (1) shall be headed by a Chief appointed by the Secretary of Energy. The Administrator shall recommend to the Secretary suitable candidates for each such position.

**(b) Chief of Defense Nuclear Counterintelligence**

(1) The head of the Office of Defense Nuclear Counterintelligence is the Chief of Defense Nuclear Counterintelligence, who shall report to the Administrator and shall implement the counterintelligence policies directed by the Secretary and Administrator.

(2) The Secretary shall appoint the Chief, in consultation with the Director of the Federal Bureau of Investigation, from among individuals who have special expertise in counterintelligence. If an individual to serve as the Chief of Defense Nuclear Counterintelligence is a Federal employee of an entity other than the Administration, the service of that employee as Chief shall not result in any loss of employment status, right, or privilege by that employee.

(3) The Chief shall have direct access to the Secretary and all other officials of the Department and the contractors of the Department concerning counterintelligence matters.

- (4) The Chief shall be responsible for—

- (A) the development and implementation of the counterintelligence programs of the Administration to prevent the disclosure or loss of classified or other sensitive information; and

- (B) the development and administration of personnel assurance programs within the Administration.

**(c) Chief of Defense Nuclear Security**

(1) The head of the Office of Defense Nuclear Security is the Chief of Defense Nuclear Security, who shall report to the Administrator and

shall implement the security policies directed by the Secretary and Administrator.

(2) The Chief shall have direct access to the Secretary and all other officials of the Department and the contractors of the Department concerning security matters.

(3) The Chief shall be responsible for the development and implementation of security programs for the Administration, including the protection, control and accounting of materials, and for the physical and cyber security for all facilities of the Administration.

(Pub. L. 106-65, div. C, title XXXII, § 3232, Oct. 5, 1999, 113 Stat. 960.)

#### **§ 2423. Counterintelligence programs**

##### **(a) National security laboratories and nuclear weapons production facilities**

The Administrator shall, at each national security laboratory and nuclear weapons production facility, establish and maintain a counterintelligence program adequate to protect national security information at that laboratory or production facility.

##### **(b) Other facilities**

The Administrator shall, at each Administration facility not described in subsection (a) of this section at which Restricted Data is located, assign an employee of the Office of Defense Nuclear Counterintelligence who shall be responsible for and assess counterintelligence matters at that facility.

(Pub. L. 106-65, div. C, title XXXII, § 3233, Oct. 5, 1999, 113 Stat. 961.)

#### **§ 2424. Procedures relating to access by individuals to classified areas and information of Administration**

The Administrator shall establish appropriate procedures to ensure that any individual is not permitted unescorted access to any classified area, or access to classified information, of the Administration until that individual has been verified to hold the appropriate security clearances.

(Pub. L. 106-65, div. C, title XXXII, § 3234, Oct. 5, 1999, 113 Stat. 961.)

#### **§ 2425. Government access to information on Administration computers**

##### **(a) Procedures required**

The Administrator shall establish procedures to govern access to information on Administration computers. Those procedures shall, at a minimum, provide that any individual who has access to information on an Administration computer shall be required as a condition of such access to provide to the Administrator written consent which permits access by an authorized investigative agency to any Administration computer used in the performance of the duties of such employee during the period of that individual's access to information on an Administration computer and for a period of three years thereafter.

##### **(b) Expectation of privacy in Administration computers**

Notwithstanding any other provision of law (including any provision of law enacted by the

Electronic Communications Privacy Act of 1986), no user of an Administration computer shall have any expectation of privacy in the use of that computer.

##### **(c) Definition**

For purposes of this section, the term “authorized investigative agency” means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information.

(Pub. L. 106-65, div. C, title XXXII, § 3235, Oct. 5, 1999, 113 Stat. 961.)

##### **REFERENCES IN TEXT**

The Electronic Communications Privacy Act of 1986, referred to in subsec. (b), is Pub. L. 99-508, Oct. 21, 1986, 100 Stat. 1848, as amended. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 2510 of Title 18, Crimes and Criminal Procedure, and Tables.

##### **SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 2483 of this title.

#### **§ 2426. Congressional oversight of special access programs**

##### **(a) Annual report on special access programs**

(1) Not later than February 1 of each year, the Administrator shall submit to the congressional defense committees a report on special access programs of the Administration.

(2) Each such report shall set forth—

(A) the total amount requested for such programs in the President's budget for the next fiscal year submitted under section 1105 of title 31; and

(B) for each such program in that budget, the following:

(i) A brief description of the program.

(ii) A brief discussion of the major milestones established for the program.

(iii) The actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted.

(iv) The estimated total cost of the program and the estimated cost of the program for (I) the current fiscal year, (II) the fiscal year for which the budget is submitted, and (III) each of the four succeeding fiscal years during which the program is expected to be conducted.

##### **(b) Annual report on new special access programs**

(1) Not later than February 1 of each year, the Administrator shall submit to the congressional defense committees a report that, with respect to each new special access program, provides—

(A) notice of the designation of the program as a special access program; and

(B) justification for such designation.

(2) A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification of existing programs or technologies that are similar to the tech-



nology, or that have a mission similar to the mission, of the program that is the subject of the notice.

(3) In this subsection, the term “new special access program” means a special access program that has not previously been covered in a notice and justification under this subsection.

**(c) Reports on changes in classification of special access programs**

(1) Whenever a change in the classification of a special access program of the Administration is planned to be made or whenever classified information concerning a special access program of the Administration is to be declassified and made public, the Administrator shall submit to the congressional defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

(2) Except as provided in paragraph (3), any report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change or public announcement is to occur.

(3) If the Administrator determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change or public announcement concerning a special access program of the Administration, the Administrator may submit the report required by paragraph (1) regarding the proposed change or public announcement at any time before the proposed change or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

**(d) Notice of change in SAP designation criteria**

Whenever there is a modification or termination of the policy and criteria used for designating a program of the Administration as a special access program, the Administrator shall promptly notify the congressional defense committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

**(e) Waiver authority**

(1) The Administrator may waive any requirement under subsection (a), (b), or (c) of this section that certain information be included in a report under that subsection if the Administrator determines that inclusion of that information in the report would adversely affect the national security. The Administrator may waive the report-and-wait requirement in subsection (f) of this section if the Administrator determines that compliance with such requirement would adversely affect the national security. Any waiver under this paragraph shall be made on a case-by-case basis.

(2) If the Administrator exercises the authority provided under paragraph (1), the Administrator shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the congressional defense committees.

**(f) Report and wait for initiating new programs**

A special access program may not be initiated until—

(1) the congressional defense committees are notified of the program; and

(2) a period of 30 days elapses after such notification is received.

(Pub. L. 106-65, div. C, title XXXII, § 3236, Oct. 5, 1999, 113 Stat. 962.)

**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 2122a of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 106-65, § 3294(e)(1)(A).

**SUBCHAPTER III—MATTERS RELATING TO PERSONNEL**

**SUBCHAPTER REFERRED TO IN OTHER SECTIONS**

This subchapter is referred to in section 2402 of this title.

**§ 2441. Authority to establish certain scientific, engineering, and technical positions**

The Administrator may, for the purposes of carrying out the responsibilities of the Administrator under this chapter, establish not more than 300 scientific, engineering, and technical positions in the Administration, appoint individuals to such positions, and fix the compensation of such individuals. Subject to the limitations in the preceding sentence, the authority of the Administrator to make appointments and fix compensation with respect to positions in the Administration under this section shall be equivalent to, and subject to the limitations of, the authority under section 2201(d) of title 42 to make appointments and fix compensation with respect to officers and employees described in such section.

(Pub. L. 106-65, div. C, title XXXII, § 3241, Oct. 5, 1999, 113 Stat. 964.)

**REFERENCES IN TEXT**

This chapter, referred to in text, was in the original “this title”, meaning title XXXII of div. C of Pub. L. 106-65, Oct. 5, 1999, 113 Stat. 953, as amended, which is classified principally to this chapter. For complete classification of title XXXII to the Code, see Short Title note set out under section 2401 of this title and Tables.

**§ 2442. Voluntary early retirement authority**

**(a) Authority**

An employee of the Department of Energy who is separated from the service under conditions described in subsection (b) of this section after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity in accordance with the provisions in chapter 83 or 84 of title 5, as applicable.

**(b) Conditions of separation**

Subsection (a) of this section applies to an employee who—

(1) has been employed continuously by the Department of Energy for more than 30 days before the date on which the Secretary of Energy makes the determination required under paragraph (4)(A);

(2) is serving under an appointment that is not limited by time;

(3) has not received a decision notice of involuntary separation for misconduct or unacceptable performance that is pending decision; and

(4) is separated from the service voluntarily during a period with respect to which—

(A) the Secretary of Energy determines that the Department of Energy is undergoing a major reorganization as a result of the establishment of the National Nuclear Security Administration; and

(B) the employee is within the scope of an offer of voluntary early retirement (as defined by organizational unit, occupational series or level, geographical location, any other similar factor that the Office of Personnel Management determines appropriate, or any combination of such definitions of scope), as determined by the Secretary under regulations prescribed by the Office.

#### (c) Treatment of employees

For purposes of chapters 83 and 84 of title 5 (including for purposes of computation of an annuity under such chapters), an employee entitled to an annuity under this section shall be treated as an employee entitled to an annuity under section 8336(d) or 8414(b) of such title, as applicable.

#### (d) Definitions

As used in this section, the terms “employee” and “annuity”—

(1) with respect to individuals covered by the Civil Service Retirement System established in subchapter III of chapter 83 of title 5 have the meaning of such terms as used in such chapter; and

(2) with respect to individuals covered by the Federal Employees Retirement System established in chapter 84 of such title, have the meaning of such terms as used in such chapter.

#### (e) Limitation and termination of authority

The authority provided in subsection (a) of this section—

(1) may be applied with respect to a total of not more than 600 employees of the Department of Energy; and

(2) shall expire on September 30, 2003.

(Pub. L. 106-65, div. C, title XXXII, § 3242, Oct. 5, 1999, 113 Stat. 964.)

### § 2443. Repealed. Pub. L. 107-107, div. C, title XXXI, § 3143, Dec. 28, 2001, 115 Stat. 1371

Section, Pub. L. 106-65, div. C, title XXXII, § 3245, as added Pub. L. 106-377, § 1(a)(2) [title III, § 315], Oct. 27, 2000, 114 Stat. 1441, 1441A-81, related to prohibition on pay of personnel engaged in concurrent service or duties inside and outside Administration.

## SUBCHAPTER IV—BUDGET AND FINANCIAL MANAGEMENT

### § 2451. Separate treatment in budget

#### (a) President's budget

In each budget submitted by the President to the Congress under section 1105 of title 31,

amounts requested for the Administration shall be set forth separately within the other amounts requested for the Department of Energy.

#### (b) Budget justification materials

In the budget justification materials submitted to Congress in support of each such budget, the amounts requested for the Administration shall be specified in individual, dedicated program elements.

(Pub. L. 106-65, div. C, title XXXII, § 3251, Oct. 5, 1999, 113 Stat. 966.)

### § 2452. Planning, programming, and budgeting process

#### (a) Procedures required

The Administrator shall establish procedures to ensure that the planning, programming, budgeting, and financial activities of the Administration comport with sound financial and fiscal management principles. Those procedures shall, at a minimum, provide for the planning, programming, and budgeting of activities of the Administration using funds that are available for obligation for a limited number of years.

#### (b) Annual plan for obligation of funds

(1) Each year, the Administrator shall prepare a plan for the obligation of the amounts that, in the President's budget submitted to Congress that year under section 1105(a) of title 31, are proposed to be appropriated for the Administration for the fiscal year that begins in that year (in this section referred to as the “budget year”) and the two succeeding fiscal years.

(2) For each program element and construction line item of the Administration, the plan shall provide the goal of the Administration for the obligation of those amounts for that element or item for each fiscal year of the plan, expressed as a percentage of the total amount proposed to be appropriated in that budget for that element or item.

#### (c) Submission of plan and report

The Administrator shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress under section 1105(a) of title 31, each of the following:

(1) The plan required by subsection (b) of this section prepared with respect to that budget.

(2) A report on the plans prepared with respect to the preceding years' budgets, which shall include, for each goal provided in those plans—

(A) the assessment of the Administrator as to whether or not that goal was met; and

(B) if that assessment is that the goal was not met—

(i) the reasons why that goal was not met; and

(ii) the plan of the Administrator for meeting or, if necessary, adjusting that goal.

(Pub. L. 106-65, div. C, title XXXII, § 3252, Oct. 5, 1999, 113 Stat. 966; Pub. L. 106-398, § 1 [div. C, title XXXI, § 3158(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-469.)

## AMENDMENTS

2000—Pub. L. 106-398 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

## FIRST REPORT ON ASSESSMENT OF PRIOR PLANS; GAO REPORT

Pub. L. 106-398, §1 [div. C, title XXXI, §3158(b), (c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-469, provided that:

“(b) EFFECTIVE DATE OF REQUIREMENT TO ASSESS PRIOR PLAN.—The first report submitted under paragraph (2) of subsection (c) of such section [subsec. (c)(2) of this section] (as added by subsection (a)) shall be the report on the plan prepared with respect to the budget submitted in calendar year 2001.

“(c) GAO REPORT.—Not later than March 15, 2001, the Comptroller General shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an assessment of the adequacy of the planning, programming, and budgeting processes of the National Nuclear Security Administration.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2483 of this title.

**§ 2453. Future-years nuclear security program****(a) Submission to Congress**

The Administrator shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, a future-years nuclear security program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years nuclear security program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.

**(b) Elements**

Each future-years nuclear security program shall contain the following:

(1) A detailed description of the program elements (and the projects, activities, and construction projects associated with each such program element) during the applicable five-fiscal year period for at least each of the following:

- (A) For defense programs—
  - (i) directed stockpile work;
  - (ii) campaigns;
  - (iii) readiness in technical base and facilities; and
  - (iv) secure transportation asset.
- (B) For defense nuclear nonproliferation—
  - (i) nonproliferation and verification, research, and development;
  - (ii) arms control; and
  - (iii) fissile materials disposition.
- (C) For naval reactors, naval reactors operations and maintenance.

- (2) A statement of proposed budget authority, estimated expenditures, and proposed appropriations necessary to support each program element specified pursuant to paragraph (1).
- (3) A detailed description of how the funds identified for each program element specified pursuant to paragraph (1) in the budget for the Administration for each fiscal year during

that five-fiscal year period will help ensure that the nuclear weapons stockpile is safe and reliable, as determined in accordance with the criteria established under section 3158 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (42 U.S.C. 2121 note).

(4) A description of the anticipated workload requirements for each Administration site during that five-fiscal year period.

**(c) Consistency in budgeting**

(1) The Administrator shall ensure that amounts described in subparagraph (A) of paragraph (2) for any fiscal year are consistent with amounts described in subparagraph (B) of paragraph (2) for that fiscal year.

(2) Amounts referred to in paragraph (1) are the following:

(A) The amounts specified in program and budget information submitted to Congress by the Administrator in support of expenditure estimates and proposed appropriations in the budget submitted to Congress by the President under section 1105(a) of title 31 for any fiscal year, as shown in the future-years nuclear security program submitted pursuant to subsection (a) of this section.

(B) The total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Administration included pursuant to paragraph (5) of section 1105(a) of such title in the budget submitted to Congress under that section for any fiscal year.

**(d) Treatment of management contingencies**

Nothing in this section shall be construed to prohibit the inclusion in the future-years nuclear security program of amounts for management contingencies, subject to the requirements of subsection (c) of this section.

(Pub. L. 106-65, div. C, title XXXII, §3253, Oct. 5, 1999, 113 Stat. 966; Pub. L. 106-398, §1 [div. C, title XXXI, §3154], Oct. 30, 2000, 114 Stat. 1654, 1654A-465.)

## REFERENCES IN TEXT

Section 3158 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, referred to in subsec. (b)(3), is section 3158 of Pub. L. 105-261, as amended, which is set out as a note under section 2121 of Title 42, The Public Health and Welfare.

## AMENDMENTS

2000—Subsec. (b). Pub. L. 106-398, §1 [div. C, title XXXI, §3154(a)], added pars. (1) to (3), redesignated former par. (2) as (4), and struck out former par. (1) which read as follows: “The estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Administration during the five-fiscal year period covered by the program, expressed in a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31.”

Subsec. (c). Pub. L. 106-398, §1 [div. C, title XXXI, §3154(b)(1), (2)], redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: “The Administrator shall include in the materials the Administrator submits to Congress in support of the budget for any fiscal year that is submitted by the President pursuant to section 1105 of title 31 a description of how the funds identified for each program element in the weapons activities budget

of the Administration for such fiscal year will help ensure that the nuclear weapons stockpile is safe and reliable as determined in accordance with the criteria established under section 3158 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2257; 42 U.S.C. 2121 note)."

Subsec. (d). Pub. L. 106-398, §1 [div. C, title XXXI, §3154(b)(2), (3)], redesignated subsec. (e) as (d) and substituted "subsection (c)" for "subsection (d)". Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 106-398, §1 [div. C, title XXXI, §3154(b)(2)], redesignated subsec. (e) as (d).

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2483 of this title.

### SUBCHAPTER V—MISCELLANEOUS PROVISIONS

#### § 2461. Environmental protection, safety, and health requirements

##### (a) Compliance required

The Administrator shall ensure that the Administration complies with all applicable environmental, safety, and health statutes and substantive requirements.

##### (b) Procedures required

The Administrator shall develop procedures for meeting such requirements.

##### (c) Rule of construction

Nothing in this chapter shall diminish the authority of the Secretary of Energy to ascertain and ensure that such compliance occurs.

(Pub. L. 106-65, div. C, title XXXII, §3261, Oct. 5, 1999, 113 Stat. 967.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this title", meaning title XXXII of div. C of Pub. L. 106-65, Oct. 5, 1999, 113 Stat. 953, as amended, which is classified principally to this chapter. For complete classification of title XXXII to the Code, see Short Title note set out under section 2401 of this title and Tables.

#### § 2462. Compliance with Federal Acquisition Regulation

The Administrator shall establish procedures to ensure that the mission and programs of the Administration are executed in full compliance with all applicable provisions of the Federal Acquisition Regulation issued pursuant to the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(Pub. L. 106-65, div. C, title XXXII, §3262, Oct. 5, 1999, 113 Stat. 967.)

#### REFERENCES IN TEXT

The Office of Federal Procurement Policy Act, referred to in text, is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (§401 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 41 and Tables.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2483 of this title.

#### § 2463. Sharing of technology with Department of Defense

The Administrator shall, in cooperation with the Secretary of Defense, establish procedures

and programs to provide for the sharing of technology, technical capability, and expertise between the Administration and the Department of Defense to further national security objectives.

(Pub. L. 106-65, div. C, title XXXII, §3263, Oct. 5, 1999, 113 Stat. 967.)

#### § 2464. Use of capabilities of national security laboratories by entities outside the Administration

The Secretary, in consultation with the Administrator, shall establish appropriate procedures to provide for the use, in a manner consistent with the national security mission of the Administration under section 2401(b) of this title, of the capabilities of the national security laboratories by elements of the Department of Energy not within the Administration, other Federal agencies, and other appropriate entities, including the use of those capabilities to support efforts to defend against weapons of mass destruction.

(Pub. L. 106-65, div. C, title XXXII, §3264, Oct. 5, 1999, 113 Stat. 967.)

### SUBCHAPTER VI—DEFINITIONS

#### § 2471. Definitions

For purposes of this chapter:

(1) The term "national security laboratory" means any of the following:

(A) Los Alamos National Laboratory, Los Alamos, New Mexico.

(B) Sandia National Laboratories, Albuquerque, New Mexico, and Livermore, California.

(C) Lawrence Livermore National Laboratory, Livermore, California.

(2) The term "nuclear weapons production facility" means any of the following:

(A) The Kansas City Plant, Kansas City, Missouri.

(B) The Pantex Plant, Amarillo, Texas.

(C) The Y-12 Plant, Oak Ridge, Tennessee.

(D) The tritium operations facilities at the Savannah River Site, Aiken, South Carolina.

(E) The Nevada Test Site, Nevada.

(F) Any facility of the Department of Energy that the Secretary of Energy, in consultation with the Administrator and the Congress, determines to be consistent with the mission of the Administration.

(3) The term "classified information" means any information that has been determined pursuant to Executive Order No. 12333 of December 4, 1981 (50 U.S.C. 401 note), Executive Order No. 12958 of April 17, 1995 (50 U.S.C. 435 note), or successor orders, to require protection against unauthorized disclosure and that is so designated.

(4) The term "Restricted Data" has the meaning given such term in section 2014(y) of title 42.

(5) The term "congressional defense committees" means—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(Pub. L. 106-65, div. C, title XXXII, § 3281, Oct. 5, 1999, 113 Stat. 968.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title XXXII of div. C of Pub. L. 106-65, Oct. 5, 1999, 113 Stat. 953, as amended, which is classified principally to this chapter. For complete classification of title XXXII to the Code, see Short Title note set out under section 2401 of this title and Tables.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7274s.

### SUBCHAPTER VII—TRANSITION PROVISIONS

#### § 2481. Functions transferred

##### (a) Transfers

There are hereby transferred to the Administrator all national security functions and activities performed immediately before October 5, 1999, by the following elements of the Department of Energy:

- (1) The Office of Defense Programs.
- (2) The Office of Nonproliferation and National Security.
- (3) The Office of Fissile Materials Disposition.
- (4) The nuclear weapons production facilities.
- (5) The national security laboratories.
- (6) The Office of Naval Reactors.

##### (b) Authority to transfer additional functions

The Secretary of Energy may transfer to the Administrator any other facility, mission, or function that the Secretary, in consultation with the Administrator and Congress, determines to be consistent with the mission of the Administration.

##### (c) Environmental remediation and waste management activities

In the case of any environmental remediation and waste management activity of any element specified in subsection (a) of this section, the Secretary of Energy may determine to transfer responsibility for that activity to another element of the Department.

(Pub. L. 106-65, div. C, title XXXII, § 3291, Oct. 5, 1999, 113 Stat. 968.)

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the advanced scientific computing research program and activities at Lawrence Livermore National Laboratory, including the functions of the Secretary of Energy relating thereto, to the Secretary of Homeland Security, see sections 183(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2402, 2409, 2484 of this title.

#### § 2482. Transfer of funds and employees

##### (a) Transfer of funds

(1) Any balance of appropriations that the Secretary of Energy determines is available and needed to finance or discharge a function, power, or duty or an activity that is transferred to the Administration shall be transferred to the Administration and used for any purpose for which those appropriations were originally available. Balances of appropriations so transferred shall—

(A) be credited to any applicable appropriation account of the Administration; or

(B) be credited to a new account that may be established on the books of the Department of the Treasury;

and shall be merged with the funds already credited to that account and accounted for as one fund.

(2) Balances of appropriations credited to an account under paragraph (1)(A) are subject only to such limitations as are specifically applicable to that account. Balances of appropriations credited to an account under paragraph (1)(B) are subject only to such limitations as are applicable to the appropriations from which they are transferred.

##### (b) Personnel

(1) With respect to any function, power, or duty or activity of the Department of Energy that is transferred to the Administration, those employees of the element of the Department of Energy from which the transfer is made that the Secretary of Energy determines are needed to perform that function, power, or duty, or for that activity, as the case may be, shall be transferred to the Administration.

(2) The authorized strength in civilian employees of any element of the Department of Energy from which employees are transferred under this section is reduced by the number of employees so transferred.

(Pub. L. 106-65, div. C, title XXXII, § 3292, Oct. 5, 1999, 113 Stat. 969.)

#### § 2483. Transition provisions

##### (a) Compliance with financial principles

(1) The Under Secretary of Energy for Nuclear Security shall ensure that the compliance with sound financial and fiscal management principles specified in section 2452 of this title is achieved not later than October 1, 2000.

(2) In carrying out paragraph (1), the Under Secretary of Energy for Nuclear Security shall conduct a review and develop a plan to bring applicable activities of the Administration into full compliance with those principles not later than such date.

(3) Not later than January 1, 2000, the Under Secretary of Energy for Nuclear Security shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of that review and a description of that plan.

##### (b) Initial report for future-years nuclear security program

The first report under section 2453 of this title shall be submitted in conjunction with the budget submitted for fiscal year 2001.

**(c) Procedures for computer access**

The regulations to implement the procedures under section 2425 of this title shall be prescribed not later than 90 days after the effective date of this chapter.

**(d) Compliance with FAR**

(1) The Under Secretary of Energy for Nuclear Security shall ensure that the compliance with the Federal Acquisition Regulation specified in section 2462 of this title is achieved not later than October 1, 2000.

(2) In carrying out paragraph (1), the Under Secretary of Energy for Nuclear Security shall conduct a review and develop a plan to bring applicable activities of the Administration into full compliance with the Federal Acquisition Regulation not later than such date.

(3) Not later than January 1, 2000, the Under Secretary of Energy for Nuclear Security shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of that review and a description of that plan.

(Pub. L. 106-65, div. C, title XXXII, §3295, Oct. 5, 1999, 113 Stat. 970.)

## REFERENCES IN TEXT

For effective date of this chapter, referred to in subsec. (c), see section 3299 of Pub. L. 106-65, set out as an Effective Date note under section 2401 of this title.

**§ 2484. Applicability of preexisting laws and regulations**

Unless otherwise provided in this chapter, all provisions of law and regulations in effect immediately before the effective date of this chapter that are applicable to functions of the Department of Energy specified in section 2481 of this title shall continue to apply to the corresponding functions of the Administration.

(Pub. L. 106-65, div. C, title XXXII, §3296, Oct. 5, 1999, 113 Stat. 971.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title XXXII of div. C of Pub. L. 106-65, Oct. 5, 1999, 113 Stat. 953, as amended, which is classified principally to this chapter. For effective date of this chapter, see section 3299 of Pub. L. 106-65, set out as an Effective Date note under section 2401 of this title. For complete classification of title XXXII to the Code, see Short Title note set out under section 2401 of this title and Tables.